

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Honorable Thomas J. Tucker

Chapter 9

**REPLY IN SUPPORT OF DEBTOR'S
FORTY-THIRD OMNIBUS OBJECTION TO CERTAIN CLAIMS**

(NO BASIS)

The City of Detroit ("City"), by its undersigned counsel, files this reply in support of its *Forty-Third Omnibus Objection to Certain Claims* ("Objection," Doc. No. 11081), stating as follows:

1. On April 14, 2016, the City filed its Objection. The only response to the Objection was filed by Benjamin F. Newkirt, Jr. [Doc. No. 11147] ("Newkirt Response").¹ Newkirt's proof of claim and the Newkirt Response are attached as Exhibits 1 and 2.

2. The Newkirt Response should be overruled. The City had objected to Newkirt's proof of claim via the Objection because the proof of claim neither states that the City owes Newkirt any specific amount of money nor provides any explanation as to why the City owes him anything at all. Ex. 1.

¹ A deficiency noticed was entered by the Court on May 6, 2016. [Doc. No. 11148]. The deficiency has not yet been cured.

3. The Newkirt Response does not remedy these defects. In the Newkirt Response, Newkirt mainly lists ailments from which he purportedly suffers and asks to be excused from attending the hearing. Ex. 2. Newkirt also alleges that “The City already takes \$220.00 out of my check already.” Ex. 2. This appears to be a collateral attack on the City’s confirmed chapter 9 plan and should be overruled. To the extent it is not an attack on the confirmed plan, Newkirt provides no documentation or legal basis to support this claim. In short, Newkirt acknowledges that he received the Objection and that he opposes it, but does nothing to respond to the main point of the Objection, which is that his proof of claim fails to state any claim at all. *Id.* The Objection should be upheld as to this claim.

CONCLUSION

For these reasons, the City asks the Court to overrule the Newkirt Response and sustain the City’s Objection to each of the claims objected to in the Objection.

Dated: May 13, 2016

By: /s/ Ronald A. Spinner

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ATTORNEYS FOR THE CITY OF DETROIT

B10 (Official Form 10) (04/13) (Modified)

UNITED STATES BANKRUPTCY COURT		EASTERN DISTRICT of MICHIGAN		CHAPTER 9 PROOF OF CLAIM	
Name of Debtor: City of Detroit, Michigan			Case Number: 13-53846		
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing.					
Name of Creditor (the person or other entity to whom the debtor owes money or property): BENJAMIN F. NEWKIRT JR.				<div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 0.8em;">COURT USE ONLY</div> <div style="font-size: 0.8em;"> <input type="checkbox"/> Check this box if this claim amends a previously filed claim. </div> <div style="font-size: 0.8em;"> Court Claim Number: _____ </div> <div style="font-size: 0.8em;"> U.S. BANKRUPTCY COURT E.D. MICHIGAN-DETROIT Filed on: _____ </div> <div style="font-size: 0.8em;"> <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars. </div>	
Name and address where notices should be sent: 151 CLEBURNE PKWY. APT. #1264 MILAM, GA. 30141					
Telephone number: _____ email: _____					
Name and address where payment should be sent (if different from above): Telephone number: _____ email: _____					
<div style="display: flex; justify-content: space-between;"> <div> 1. Amount of Claim as of Date Case Filed: \$ _____ If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement. </div> <div style="text-align: right;"> <div style="font-size: 1.5em; font-weight: bold;">RECEIVED</div> <div style="font-size: 1.2em; font-weight: bold;">MAR 03 2014</div> <div style="font-size: 0.8em; font-weight: bold;">KURTZMAN CARSON CONSULTANTS</div> </div> </div>					
2. Basis for Claim: _____ (See instruction #2)					
3. Last four digits of any number by which creditor identifies debtor: _____			3a. Debtor may have scheduled account as: _____ (See instruction #3a)		
<div style="display: flex;"> <div style="flex: 1;"> 4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable </div> <div style="flex: 1;"> Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____ </div> </div>					
5. Amount of Claim Entitled to Priority as an Administrative Expense under 11 U.S.C. §§ 503(b)(9) and 507(a)(2). \$ _____					
5b. Amount of Claim Otherwise Entitled to Priority. Specify Applicable Section of 11 U.S.C. § _____ \$ _____					
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)					
7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____					
8. Signature: (See instruction # 8) Check the appropriate box. <input checked="" type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.) (See Bankruptcy Rule 3004.) I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.					
Print Name: BENJAMIN F. NEWKIRT JR. Title: RETIREE Company: CITY OF DETROIT Address and telephone number (if different from notice address above): _____ <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div> Signature: Benjamin F. Newkirt Jr. (Date): FEB. 19, 2014 </div> </div>					
Telephone number: 13-53846-tjt Email: 13-53846-tjt Filed 05/13/16 Entered 05/13/16 2:14 PM Page 5 of 8 Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment					

FEB. 19, 2014

DEAR: THE CLERK'S OFFICE.

I DIDN'T GET THIS NOTICE IN TIME. I GOT
IT ON FEB. 18, 2014.

BENJAMIN F. NEUKIRCH

Ben F. Neukirch

151 CLEBURNE-APT. #204

HICKAM, GA. 30141

313-254-6060

11111
BENJAMIN F. NEWKIRK JR.
6736 BILL CARLUTH PKWY
APT. 1204
HIRAM, GA. 30141
313-254-6060

SUBJECT: DEBTOR'S FORTY-THIRD OMNIBUS
OBJECTION TO CERTAIN CLAIMS.

I OPPOSE THE OBJECTION TO MY CLAIM.

THE REASON WHY I OPPOSE:

(I.) I AM 65 YRS. OLD. MY PENSION AND SOCIAL SECURITY
IS MY ONLY INCOME. THE CITY ALREADY TAKES \$220.00
OUT OF MY CHECK ALREADY.

(II.) I AM ON MEDICARE AND HAVE OTHER MEDICAL
BILLS.

(III.) I HAVE A "BULGED AND HERNIATED DISC" IN MY BACK.

(IV.) WOULD LIKE TO BE EXCUSED FROM MAY 18TH. HEARINGS.
I HAVE A PROBLEM SATTING, STANDING AND WALKING
TOO LONG.

BENJAMIN F. NEWKIRK JR.
CASE NO. 13-53846
MAY 1, 2016